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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JEFFREY JAY HAWKINS,

Petitioner,

v.

RON BROOMFIELD, Acting Warden
of the California State Prison at San
Quentin,

Respondent.

) No. 2:96-cv-1155-TLN-EFB

)

) **DEATH PENALTY CASE**

)

) **STIPULATION AND [PROPOSED] ORDER**
) **TO MODIFY ORDER SCHEDULING THE**
) **EVIDENTIARY HEARING**

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1 Petitioner Jeffrey Jay Hawkins and Respondent Warden Ron Broomfield hereby agree to
2 postpone the evidentiary hearing, and the preceding discovery schedule, for slightly less than one
3 year due to several difficulties presented by the COVID pandemic.

4 The COVID pandemic—and concomitant shutdown of much of the nation—is without
5 parallel. The Governor of California declared a state of emergency on March 4, 2020; President
6 Donald Trump declared a state of emergency for the country as a whole on March 13, 2020. The
7 courts, and the American economy, have been largely shut down for months. With the recent
8 slackening of many states' stay-at-home orders, new cases are now rising in 21 states, including
9 California. *Coronavirus in the U.S.: Latest Map and Case Count*, The New York Times (June
10 17, 2020), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>. To date,
11 there have been 116,140 total deaths. *Cases in the United States*, Centers for Disease Control and
12 Prevention (June 17, 2020), [https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-](https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html)
13 us.html.

14 Despite months of teleworking by both Petitioner and Respondent, the COVID-crisis has
15 interfered with counsels' ability to engage in discovery and to effectively prepare for the
16 evidentiary hearing. The pandemic has prevented counsel from conducting in-person interviews.
17 Many key witnesses—including trial counsel William Lyons and Michael Brady, to be deposed
18 in discovery—are over the age of 65, and therefore are among COVID's vulnerable populations.
19 Accordingly, investigation and planned depositions have been suspended. Moreover, normal
20 prison visitation has been canceled state-wide, and COVID-19 cases are now rising at San
21 Quentin. Thus, no experts can even begin to evaluate Petitioner for the foreseeable future.

22 After discussion, the parties have agreed to postpone the evidentiary hearing and the final
23 status conference by ten months. The Court has supplied a new date for the evidentiary hearing,
24 and also recommended a convenient time for the final status conference. Pursuant to the Court's
25 guidance, the parties hereby jointly request that the Court begin the evidentiary hearing on
26 August 23, 2021. The parties hereby jointly request that the Court hold the final status
27 conference on July 21, 2021.
28

1 The parties have also agreed to postpone the close of discovery and the submission of
 2 their pre-hearing joint statement by eleven months. On August 9, 2019, the Court entered an
 3 Order modifying its original June 19, 2019 Order scheduling the evidentiary hearing. ECF 275
 4 (modifying Order); ECF 273 (original scheduling Order). Thereby, the Court delayed the
 5 previously scheduled evidentiary hearing and the final status conference by one month; it did
 6 not, however, also similarly postpone the original close of discovery date and the deadline for
 7 submission of the pre-hearing joint statement by one additional month. ECF 275. The parties
 8 have agreed to defer the close of discovery and the deadline for submission of the joint statement
 9 by eleven months, to conform to the timetable provided by the Court's original June 19, 2019
 10 Order scheduling the evidentiary hearing. ECF 273. The parties hereby request that the Court
 11 close discovery on May 24, 2021 and set the deadline for the joint statement on June 24, 2021.

12
 13
 14 DATED: June 19, 2020

Respectfully submitted,

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 16 Federal Defender

17 /s/ David Harshaw
 18 DAVID HARSHAW
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20 /s/ Karl Saddlemire
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Attorneys for Respondent
RON BROOMFIELD, ACTING WARDEN AT
SAN QUENTIN

ORDER

IT IS HEREBY ORDERED, the Court, having received, read, and considered the parties' stipulation, and good cause appearing therefore, adopts the parties' stipulation in its entirety as its order.

Accordingly, the Court modifies its Order scheduling the evidentiary hearing and preceding discovery schedule as follows:

1. Reschedule the evidentiary hearing currently set for October 26, 2020 at 9:30 a.m. in courtroom 8, to begin August 23, 2021 at 9:30 a.m.

2. Reschedule the last status conference currently set for September 23, 2020 at 10:00 a.m. in Courtroom 8, to July 21, 2021 at 10:00 a.m.

3. Reschedule the close of discovery currently set for June 22, 2020 to May 24, 2021. Any discovery motions must be filed by that date.

4. Reschedule the deadline for submission of a pre-hearing joint statement to June 24, 2021.

Dated: June 23, 2020



Hon. Edmund F. Brennan
United States Magistrate Judge